Rejection under 35 USC Section 101

The subject matter rejection is respectfully traversed. The Examiner is citing old cases about printed matter, while ignoring more recent case law. The more recent case law holds that printed matter rejections are not applicable to data structures stored in memory and readable by a computer. Please see the case of In Re Lowry, 32 USPQ 2d 1031 (Fed. Cir. 1994), which made clear that data structures of the sort claimed here are patentable subject matter under 35 USC §101.

Art rejections

The art rejections are respectfully traversed.

The prior remarks are incorporated herein by reference. Also Applicant offers the following additional remarks.

Applicant would like to point out that the Moorby reference has 18 drawing sheets and 24 columns of text. Moorby accordingly is a complex reference; and that the Examiner is therefore required by 37 CFR 1.104 (c) (2) to point out precisely which elements are found where in the reference. However, the Examiner has not pointed out where the elements of the claims are to be found in the reference. Instead, he locates items in the reference that are different from what is claimed. Applicant respectfully submits that this is improper.

Art rejections: independent claims

Independent claim 28 recites a presentation program portion stored on a computer readable medium. The portion includes a segment that includes a presentation element. A presentation element is defined at page 6, lines 8-9 of the specification, "A *presentation element*

is part of the presentation, like a still image or piece of text, which at any given moment is presented in the presentation." [emphasis added] In other words, the actual content, i.e. the presentation elements, is included in the segment.

The Examiner has pointed to figures 11 a-c and figures 12 a-b of Moorby, along with columns 11 and 12 of the same document. The text and figures pointed to by the Examiner are TimeLines. These timelines do not actually store the program portions. Instead, they are used to "determine the length of play of each or selected of the icons which are represented in the StoryLine." In other words, the graphical data illustrated in these pictures controls the presentation of program portions which are stored elsewhere. The rectangular boxes 256-266 are only icons, not actual presentation elements. The Examiner has therefore failed to indicate where in the reference any presentation program portions are actually stored in a computer readable medium.

Claim 28 further recites that the reference timing is defined independent of the presentation elements. In the TimeLines of Moorby, the length of the presentation element is determined by the physical length of the icons 256-266. Therefore, even if the Examiner thinks that these icons are presentation elements (which they are not) the timing is not stored independent of them. They determine the timing by their own lengths, i.e. by one of their own non-independent parts. Accordingly, these TimeLines fail to teach or suggest storing the reference timing independently of the presentation elements within a sub-presentation program segment.

The other independent claims, 35 and 37, contain analogous limitations to those discussed above with respect to claim 28.

The dependent claims (other than 33 and 41)

As discussed before, Moorby is a complex difference. The Examiner has completely failed to indicate where the actual limitations of any claims may be found in this reference. In particular, the Examiner has not pointed out specifically where the limitations of the dependent claims may be found in this reference. Accordingly, Applicant respectfully submits that the rejection of these dependent claims is deficient under 37 CFR 1.104.

For instance, where is there any teaching or suggestion that presentation elements are to be presented simultaneously, per Applicant's claim 30? The Examiner has not said.

Applicant reserves the right to advance further arguments with respect to the dependent claims in an appeal brief.

Rejection of claims 33 and 41 (Moorby in view of Gudmundson)

Gudmondson, with 46 sheets of drawing and 82 colums of text is even more complex than Gorby. Accordingly, Applicant will limit his remarks to those portions of Gudmondson actually pointed to by the Examiner and such other parts as Applicant may happen to have noticed. Applicant does not pretend to have read this entire reference.

The Examiner's application of Gudmondson is rather confusing. It appears that the Examiner thinks that the containers referred to in the Gudmondson col. 8 actually hold program presentation elements per Applicant's claim. However a close examination of Gudmondson's column 16 reveals that this is an incorrect characterization of the "containers". The "containers" include Elements, Modifiers and Behaviors. The "containers" in which "elements" are embodied in Gudmondson are "object containers" (see col. 16, line 55). These objects are meant in the sense of "object-oriented programming." (see col. 3, lines 54-56) Objects in object-oriented

programming are not data structures stored in memory. They are types of standalone processes or tasks (see e.g. col. 4, where objects are said to perform tasks, be aware of interfaces, etc.) They are to be contrasted with data structures which only store data (see col. 4, line 26). Element objects are also stated to be state machines (see col. 36, line 18).
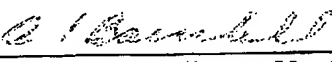
Thus Gudmondson's figure 16(c) referred to by the Examiner does not teach or suggest a play-out specification stored on a medium and including a specification specifying a location of any presentation element, as claimed by Applicant. Instead, the figure shows a user interface that allows calling up an object, i.e. a task. The object in turn generates content as part of the authoring tool. As a result, calling up these containers using a user interface has no relationship with stored locations of presentation elements as claimed by Applicant.

Accordingly, Applicant respectfully submits that the Examiner's reading of Gudmondson is simply incorrect.

Applicant respectfully submits that he has answered each issue raised by the Examiner and that the application is accordingly in condition for allowance. Allowance is therefore respectfully requested.

Respectfully submitted,

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